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December 4, 2020

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VIA ECF

The Honorable Stephen L. Crocker
United States Courthouse
120 N. Henry St.
Madison, WI 53703

**Re: *Driftless Area Land Conservancy v. Huebsch*, Case No. 19-cv-1007: Co-Owners’
Response to November 30, 2020 Order**

Dear Magistrate Judge Crocker:

On behalf of Intervenor-Defendants American Transmission Company LLC (“ATC”), Dairyland Power Cooperative (“Dairyland”), and ITC Midwest LLC (“ITC”) (collectively, “the Co-Owners”), I am writing in response to this Court’s November 30, 2020 order regarding the summary judgment and trial dates in the above-captioned matter.

First, the Co-Owners oppose postponement of the trial from the currently scheduled date of May 24, 2021. (*See* ECF No. 54, at 4) While the Co-Owners appreciate the Court’s willingness to reschedule deadlines in this case to accommodate the forthcoming holidays, the Co-Owners have a strong interest in resolving this case as soon as is reasonably possible. Moreover, and as the Co-Owners have previously stated, discovery in this case began in May. The Plaintiffs have had more than enough time to marshal evidence to support their claims through discovery to parties and non-parties alike. The fact that they waited until October (when the deadline for dispositive motions was less than a month away) to propound a substantial amount of their discovery on parties and third parties is no one’s fault but their own. Accordingly, the Co-Owners’ strong preference is to maintain the current deadline for dispositive motions (January 4, 2021) and the current trial date (May 24, 2021).

Second, if the Court is inclined to alter the trial date in this case, the Co-Owners prefer a trial date of July 12, 2021, but have flexibility to work with any of the dates the Court proposed.

Finally, as the Court is aware, the Co-Owners and the Defendants have appealed the Court’s partial denial of their motions to dismiss to the Seventh Circuit Court of Appeals. The Defendants have also filed a motion with the Seventh Circuit to stay proceedings before this Court while the appeal is pending. Should the Seventh Circuit grant that motion, it would effectively suspend the procedural schedule in this case. In that instance, the Co-Owners would ask this Court to preserve one of the August 2021 trial dates for the parties in case it is needed.

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Very truly yours,

A handwritten signature in black ink, appearing to read "B. Potts", with a stylized flourish at the end.

Brian H. Potts

cc: All counsel of record (via ECF)